

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

YARED BEYENE, *et al.*,

Plaintiffs

v.

COVERALL NORTH AMERICA, INC. d/b/a
COVERALL CLEANING CONCEPTS,
PACIFIC COMMERCIAL SERVICES, LLC,
and COVERALL OF NASHVILLE, INC.,

Defendants

Case No: 3:06-cv-628
JURY DEMANDED

Judge William J. Haynes

**DEFENDANT COVERALL NORTH AMERICA, INC.'S
MOTION TO REINSTATE MOTION TO STAY PROCEEDINGS PENDING
ARBITRATION OR, IN THE ALTERNATIVE, TO DISMISS**

Defendant, Coverall North America, Inc. d/b/a Coverall Cleaning Concepts (“Coverall”), by its attorneys, respectfully moves this Court to enter an Order reinstating Coverall’s Motion to Stay Proceedings Pending Arbitration or, in the alternative, to dismiss, and Coverall’s Opposition to Plaintiffs’ Motion to Amend, as and for its response to Plaintiffs’ Amended Complaint. In support of this Motion, Coverall states as follows:

1. Plaintiffs commenced this action on or about May 12, 2006 by filing a Complaint against Coverall and the other named Defendants in the Circuit Court of Davidson County, Tennessee, entitled *Yared Beyene, et al. v. Coverall North America, Inc., et al.*, Case No. 06-1202-IV. Coverall removed that action to this Court on or about June 22, 2006.

2. On July 14, 2006, Coverall responded to Plaintiffs’ Complaint by filing a Motion (i) pursuant to Section 3 of the Federal Arbitration Act (“FAA”), 9 U.S.C. §3, to Stay

Proceedings in this case Pending Arbitration, or, in the alternative (ii) to dismiss Plaintiffs' Complaint pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure.

3. On August 14, 2006, during the Initial Case Management Conference, after this Court indicated its intent to send the case to arbitration, Plaintiffs asked for leave to file a motion to amend their Complaint. By Order dated October 17, 2006, this Court granted that Motion.

4. Plaintiffs filed their Amended Complaint on October 17, 2006.

5. The only difference between Plaintiffs' Amended Complaint and the original Complaint is that the Amended Complaint purports to allege, in Paragraphs 36 and 37, that the Franchise Agreements between Coverall and Plaintiffs are unconscionable. However, whether these allegations constitute a valid basis for permitting Plaintiffs to circumvent their obligation to arbitrate these disputes has already been fully briefed by the parties. (*See* Docket Nos. 33 and 40.)

6. For this reason, Coverall respectfully requests that this Court reinstate Coverall's previously filed Motion to Stay Proceedings Pending Arbitration or, in the alternative, to Dismiss, as supplemented by Coverall's Opposition to Plaintiffs' Motion to Amend (filed on September 22, 2006), as and for its response to Plaintiffs' Amended Complaint.

WHEREFORE, Coverall respectfully requests that this Court enter an Order reinstating its previously filed Motion to Stay Proceedings Pending Arbitration or, in the alternative, to Dismiss, as supplemented by Coverall's Opposition to Plaintiffs' Motion to Amend, as and for its response to Plaintiffs' Amended Complaint.

Respectfully submitted,

LEWIS, KING, KRIEG & WALDROP, PC

By: /s/ John R. Tarpley

John R. Tarpley, BPR #9661
SunTrust Bank Building
201 Fourth Avenue North, Suite 1500
Post Office Box 198615
Nashville, TN 37219-8615
(615) 259-1366
(615) 259-1389 (fax)

DLA Piper US LLP

By: /s/ Norman M. Leon

Norman M. Leon
Alice A. Kelly
203 North LaSalle Street, Suite 1900
Chicago, IL 60601
(312) 368-4000
(312) 236-7516 (fax)

Attorneys for Coverall North America, Inc. d/b/a
Coverall Cleaning Concepts

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2006 the foregoing was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the court's electronic filing system.

Jay R. Slobey, Esq.
Patrick Dollar, Esq.
Blackburn & McCune, PLLC
201 Fourth Avenue, North, Ste. 1700
Nashville, Tennessee 37219

Gail Vaughn Ashworth, Esq.
Gideon & Wiseman
1100 Noel Place
200 Fourth Avenue North
Nashville, TN 37219-2144

Norman M. Leon, Esq.
Alice A. Kelly, Esq.
DLA Piper US LLP
203 N. LaSalle Street, Suite 1900
Chicago, IL 60601

/s/ John R. Tarpley
John R. Tarpley